

MINUTES OF THE REGULAR MEETING OF THE COUNCIL OF THE TOWN OF WARRENTON HELD ON AUGUST 12, 2003

The regular meeting of the Council of the Town of Warrenton was held on August 12, 2003 in the Town Council Chambers.

The following Councilmembers were present: George B. Fitch, Mayor, Councilmen David A. Norden, Birge S. Watkins, Robert L. Walker, Robert W. Rice, and Samuel B. Tarr; and Kenneth L. McLawhon, Town Manager, James P. Fisher, Town Attorney; and Evelyn J. Weimer, Town Recorder.

The Mayor called the meeting to order and invocation was given by Councilman Robert L. Walker.

The Mayor stated that the Warrenton Baptist Church had postponed their public hearing scheduled for this time due to a revival week taking place at the church and they wanted all Councilmembers to be present. Church members understood that some Councilmembers would be absent.

CITIZENS TIME.

Vernon Smith.

Mr. Smith, resident of 215 North View Circle, pointed out a stormwater drainage problem in his backyard created by a poor grading plan by the developer, Lawrence Dodson of Dodson Homes. He requested that the Town-approved drainage plan for North Rock be implemented and distributed an information package containing photographs and correspondence.

Walter Robinson.

Mr. Robinson indicated that he represented his mother who lived at 293 North Rock Lane. He noted that The Reserves at Moorhead are in the final planning and approval stages and indicated that several items were called to his attention when he was notified that his mother's lifeline to Fauquier Hospital had been cut in recent weeks. He stated that he had met with the developer, Town Manager and Town staff and resolved eight issues. He indicated one issue was that two trees would be removed at his mother's entrance which there was no objection to and another was there was a question as to whether the entrances with gates would remain. He stated his understanding was that they would remain.

He noted his mother had requested an area on the opposite side of North Rock Lane entrance from her entrance so persons could turn around and stated that the Cannons had agreed to gravel it. He also indicated there was a concern for the emergency lane and requested that there be a gate on the entrance. He stated that the original plan for a cut associated with two lots to be adjacent to the pavement of North Rock Lane was planned to be a 10 foot road and he requested that the road be widened.

He asked that an overlay utility easement be included and that also an easement be made for the emergency access. Mr. Robinson stated he and the Sanders had always maintained the road and he was asking that the drainage be repaired near the church and the potholes repaired, with a light surface being put on the road.

The Mayor stated that he had heard that some neighbors preferred that the emergency access be off of Blackwell Road or Lewis or Robinson Streets.

Mr. Norden asked if Mr. Robinson was requesting repair of the two culverts and a surface coat of asphalt on the road. He stated that tar and chip would suffice but that Mr. Cannon had indicated that the

asphalt contractors did not retain the equipment when Virginia Department of Transportation standards changed and that type of surfacing was not satisfactory.

Suzanne McNear.

Ms. McNear, 287 Winchester Street, noted that she and her husband owned a right of way for use of the road and that she requested that the developer resurface and repair the road. She expressed concern that the Homeowners Association would not maintain the road for plowing and surfacing and any liability issues not be the three property owners' responsibility.

Mr. McNear reiterated the concern that they would be liable for any problem with road maintenance in the event of an emergency.

Bill Chipman.

Mr. Chipman, 80 Brookshire Drive, stated that there had never been a road maintenance agreement and that he saw no reason it should change.

Walter Robinson.

Mr. Robinson stated that his mother was not asking for a road maintenance agreement.

Mr. Tarr stated that the road access could be used both for access to the three houses and there were hydrants that would be installed that could be used in the event of a fire.

Steve Bathon.

Mr. Bathon, 293 Winchester Street, noted that the citizens were asking if they were responsible in the event of an emergency if the road is not cleared of snow.

Walter Hitchcock.

Mr. Hitchcock, President of Friends of Warrenton, noted that the Town's Public Works Department had done a good job on Green Street but there were some problems with some small sections of certain sidewalks being raised that could cause falls. He noted that there were shrubs on Green Street that needed to be pruned.

He stated that a building architect should be included in the membership of the Architectural Review Board. Mr. Hitchcock concluded his remarks noting concerning old, rotten wood repair, that rotten wood could be repaired using bondo or wood hardener.

Eva Dalton.

Ms. Dalton of 356 Richards Drive called Council's attention to speeding on Winchester and Waterloo Streets.

Vernon Smith.

Mr. Smith noted that when he was an architect in Denver and worked as the National Park Service's chief historical architect, it was his experience that the National Park Service first did repairs on historic structures with in kind materials but also indicated that fiberglass was used on Independence Hall.

CONSENT AGENDA.

- a. Approval of the Council minutes of the regular meeting held on July 8, 2003.
- b. Financial statement and staff reports and Board and Commission minutes.
 - (1) Financial statement for period ending July 31, 2003.
 - (2) July statement of accounts paid.
 - (3) Miscellaneous staff reports.
- c. Minutes of the Planning Commission meeting held on April 16, 2003 and June 18, 2003 and Architectural Review Board meetings held on May 27, 2003 and June 24, 2003.
- d. Consideration of request of The Partnership for Warrenton to hold summer sidewalk sale in Old Town.
- e. Receive delinquent real estate and personal property tax list.
- f. Consideration of reduction in letter of credit – Mews at Menlough, Section 2.
- g. Consideration of reduction in letter of credit – Copper Mill, Section 2.

On a motion by Mr. Walker, seconded by Mr. Tarr, the consent agenda was adopted on a 5-0 vote of Council (for: Norden, Watkins, Walker, Rice, Tarr).

NEW BUSINESS.

The Reserve at Moorhead – Final Plat #03-03. Submission of the record plat and easements for the completion of a 68 lot, single-family subdivision at the intersection of Blackwell Road and Alexandria Pike. The property is in the R-10 Residential District.

The Mayor asked the applicants to make their presentation. Ms. Alex Cannon noted that they started working on the project in November 2001 and since that time, they have been through two special use permits for steep slopes, preliminary plan in public hearing and construction plans have been submitted for two sets of comments. She stated she met with Kevin Swain when he was the fire chief and he suggested an emergency access that would have a gravel sub-base that emergency services personnel could travel across and it would be hydro-seeded and look like grass, where others would not use it on a regular basis. She noted that as a user of the emergency entrance they would pay their fair share. She indicated that the new pavement for the entrance was something new and not on the list previously discussed with Town staff and Mr. Robinson.

Mayor Fitch asked Ms. Cannon that if North Rock Lane is owned by the developer does she feel that they should maintain it. Ms. Cannon stated that there was nothing in the statutes about that and stated that there was a possible third entrance where Mrs. Sanders was putting up a gate that would go straight through to the North Rock road system. She noted that they would be happy to share in any costs to maintain the road or 1/5 share.

Mr. Rice asked Ms. Cannon if she would be willing to have an addendum to the approval indicating that the property owners would be held harmless in the event they could not push snow, etc.

Mr. Ron Schools, engineer on the project, stated that those persons having the right to use the easement had no responsibility to maintain it. Ms. McNear indicated that the developer had the responsibility to maintain the easement for the 68 proposed houses. Mr. Schools indicated there would be a homeowners' association and they have the right to maintain it for their benefit.

Mr. Rice noted that he would like something included in the approval indicating that the property owners would not be held responsible for maintenance of the road. Mayor Fitch said he had seen it occur too often that the homeowners association would be responsible for maintenance and the homeowners do not know how to handle it and turn to the Town.

The Town Attorney stated that the responsibility for maintenance would apply to who is in control or ownership or if there was some contractual obligation (maintenance agreement). He asked if the McNears were owners or have right of access. The McNears noted that they had a right to use the road. The Town Attorney felt they were not responsible for maintenance. The Town Attorney noted, however, that if the McNears took on the responsibility of clearing the road and an emergency occurred due to an icy spot, etc., then they would be responsible.

Mr. Cannon asked if it was down to the issue of who is going to clear the road. The Mayor stated that there were two issues: to make sure the width of the road be 50 feet vs. 35 feet and should North Rock Lane be used as the second road for emergency access. Mr. Cannon stated that two roads were considered for emergency access, one off of King Street and the Planning Commission did not want to go into those neighborhoods.

The Mayor asked staff if there was any other private lane that acted as an emergency access. Mr. William Chipman noted that it was not unusual because Menlough subdivision had a public road that became a private access road with grass and gravel underneath.

Ali Zarabi.

Mr. Zarabi, Planning Commission member, noted he did not remember a conversation about emergency access from King Street and that it was his understanding that one parcel owner would be responsible for the maintenance (the last parcel that abuts North Rock Lane). Mr. Chipman noted he would maintain the road to the same standard as Mr. Pres Pulliam but he would not maintain it as a public right of way.

Mr. Tarr indicated that Mr. Sanders should be approached to see if the emergency access could come up through North Rock and the emergency designation would be off of North Rock and out onto Winchester Street.

Mr. Tarr asked if Council could consider approval and hold out the emergency access issue. Mr. Norden stated he did not feel comfortable moving forward with the issues which are outstanding.

Mr. Walker stated that the Homeowners Association would be responsible for maintaining the road if Mr. Cannon put that into the purchase agreement.

Mr. Norden stated that one day Mr. Chipman may own the road and the Homeowners Association may not need the road in the future.

Mr. Rice asked Mr. Cannon if Virginia Department of Transportation plans from Old Alexandria Pike down to Sheetz would show where utility lines would be located. He asked that they be located prior to the next Council meeting.

Mr. Watkins asked Miss Cannon about the trees on Blackwell Road and Miss Cannon indicated that the contractor took a number of the trees and then she was able to remove eight trees to Mr. Chipman's lot until they could be moved to other locations on the site. She stated two large pines were saved.

On a motion by Mr. Norden, seconded by Mr. Tarr, Council voted 5-0 to table the application for 30 days (for: Norden, Watkins, Walker, Rice, Tarr).

Consideration of appointment of member to the Architectural Review Board for a term expiring December 31, 2005.

The Mayor noted that Mr. Roger Martella, a former ARB member, had applied for membership on the Architectural Review Board and was willing to serve as Chairman. Mr. Mothersead stated that the ARB had agreed not to elect a chairman until a later date.

Mr. Tarr moved that Mr. Martella be appointed to the ARB, Mr. Norden seconded the motion and Council approved on a vote of 5-0 (for: Norden, Watkins, Walker, Rice, Tarr).

REPORTS AND COMMUNICATIONS.

Report from Town Attorney.

The Town Attorney noted that approval had been received by the U.S. Department of Justice concerning the boundary line adjustment.

The letter follows:

*James P. Fisher, Esq.
Fisher & Kersey
9 North 3rd Street, Suite 100, No. 5
Warrenton, Virginia 20186*

Dear Mr. Fisher:

This refers to the boundary line change (confirmed by the Circuit Court on April 24, 2003) between the Town of Warrenton and Fauquier County, Virginia, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submission on May 28, 2003.

The Attorney General does not interpose any objection to the specified change. However, we note that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the change. See the Procedures for the Administration of Section 5 (28 C.F.R. 51.41).

Sincerely,

*Joseph D. Rich
Chief, Voting Section*

Report from the Finance Committee.

Mr. Watkins, Chairman, noted that Council would consider a revised investment policy and the Manager noted that Council would consider adoption of the investment policy at their September meeting.

Report from the Police Committee.

There was no report.

Report from the Public Works Committee.

Mr. Rice, Chairman, noted that there was no report.

Report from the Utility Committee.

The Chairman, Mr. Norden, stated there was no report.

Report from the Airport Committee.

There was no report to be given.

Report from the Planning District 9 Representative.

There was no report.

Report from the Transportation Safety Commission.

Mr. Watkins indicated that there was no report to present.

Report from the Economic Development Advisory Committee representative.

Mr. Lewis stated there was no report.

Report from the Recreation Committee.

The Manager indicated that the Recreation Committee would be providing input to Grimm and Parker on the proposed center in regard to the tenants (Boys and Girls Club), Hospital, etc.

Report from Joint Communications Board representative.

There was no report.

Report from Liaison Committee representative.

Mr. Norden noted that there was no report.

Report from the Town Manager.

The Manager indicated that he would provide his quarterly report as has been the practice at the applicable Council meeting.

COUNCILMEMBERS TIME.

Mr. Watkins pointed out the fence at the horseshow grounds had been erected, Mayor Fitch's house on Calhoun Street had been completed, Mr. Alls house on Lee Street had been completed and that Council may wish to consider an award for significant renovations. It was noted that the Architectural Review Board presents awards for significant renovation in the Historic District.

CLOSED SESSION – Section 2.2-3711(A) (1) for the purpose of discussion of the Town Attorney's contract.

On a motion by Mr. Norden, seconded by Mr. Tarr, the closed session was convened on a vote of 5-0 (for: Norden, Watkins, Walker, Rice, Tarr).

On a motion by Mr. Norden, seconded by Mr. Tarr, the closed session was adjourned and general session reconvened on a 5-0 vote (for: Norden, Watkins, Walker, Rice, Tarr). Proper certification of the closed meeting is a part of the files.

On a motion by Mr. Norden, seconded by Mr. Rice, the following resolution was adopted on a 5-0 Council vote (for: Norden, Watkins, Walker, Rice, Tarr).

TOWN COUNCIL OF THE TOWN OF WARRENTON, VIRGINIA

A RESOLUTION EXTENDING LEGAL COUNSEL SERVICES CONTRACT

AUGUST 12, 2003

WHEREAS, Warrenton, VA (Hereinafter "the Town") is a municipal corporation located within the geographic confines of the County of Fauquier, and

WHEREAS, the Town Council is authorized to provide for legal counsel services and is further authorized to appoint a Town Attorney, and

WHEREAS, the Town Council desires to reappoint James P. Fisher, Esq. as Town Attorney until December 31, 2003; and

WHEREAS, the Town Council authorizes the use of associate or outside counsel to James P. Fisher, Esq.; and

WHEREAS, such appointment will not affect the sums budgeted for legal counsel as contemplated by the existing contract for legal services, it is

NOW, THEREFORE, FINALLY RESOLVED that James P. Fisher, Esq. is hereby reappointed as Town Attorney until December 31, 2003 and the Town Manager is authorized to execute and carry out any such documents and agreements as to effect the purposes of this resolution.

There being no further business, the meeting adjourned at 9:30 p.m.

Evelyn J. Weimer, Town Recorder